

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., 2nd Floor, West Tower
WASHINGTON, D.C. 20005**

ORDER

March 7, 2005

FORMAL CASE NO. TA 05-1, IN THE MATTER OF THE APPLICATION OF NEXTG NETWORKS ATLANTIC, INC. TO PROVIDE LOCAL TELECOMMUNICATIONS SERVICES IN THE DISTRICT OF COLUMBIA, Order No. 13524

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") hereby approves NextG Networks Atlantic, Inc.'s ("NextG Networks" or "Applicant") application to provide resold and facilities-based local exchange telecommunications services in the District of Columbia. On January 4, 2005, NextG Networks filed an application¹ with the Commission seeking authorization to provide resold and facilities-based local exchange telecommunications services pursuant to the District of Columbia Telecommunications Competition Act of 1996 ("D.C. Telecommunications Act").² The Application included a Statement of Business Operations ("Statement") and the requisite filing fee of \$1,000.³

2. According to Section 34-2002(d)(1) of the District of Columbia Code,⁴ an applicant

shall be exempt from any other certification requirements if the applicant demonstrates in its Statement of Business Operations that it or its affiliates have at least 3 years of experience providing telecommunications services pursuant to authorization by the FCC or a state regulatory body and that it or its affiliates derives over \$50 million in gross annual revenues from telecommunications services.

3. The Commission has reviewed the information submitted in this case and finds that the Applicant has not satisfied the statutory criteria for automatic certification under Section 34-2002(d)(1) of the District of Columbia Code. Specifically, NextG Networks has not derived

¹ *Formal Case No. TA 05-1, In the Matter of the Application of NextG Networks Atlantic, Inc. to Provide Local Telecommunications Services in the District of Columbia, Application of NextG Networks Atlantic, Inc., filed on January 4, 2005 ("Statement") and financial documents filed confidentially on January 4, 2005, January 27, 2005, and February 24, 2005 ("Supplemental Filings").*

² D.C. Code, 2001 Ed. § 34-2002.

³ D.C. Code, 2001 Ed. § 34-2002 (d)(1).

⁴ D.C. Code, 2001 Ed. § 34-2002 (d)(1).

\$50 million in gross annual revenues it received from providing telecommunications services. An applicant which is unable to satisfy these criteria may, however, be certified to provide service in the District under Section 34-2002(d)(3), which states, in pertinent part, that

the Commission may waive the minimum experience and gross annual revenue requirements if it can determine that certification is in the public interest and that the applicant has sufficient experience and financial stability to ensure the continued provision of local exchange services within the District.

4. The Applicant has submitted biographies that detail the telecommunications experience of its key personnel⁵ as well as financial information,⁶ which sets forth the Applicant's plan for funding its telecommunications operations over the next three years.⁷ NextG Networks provided substantial information attesting to the various types of telecommunications experience that its chief managers possess. Additionally, the Applicant's financial statements demonstrate its access to significant financial resources. Thus, the Commission will grant NextG Networks's certification by waiver. Based upon the analysis of this information, the Commission finds that the Applicant has the experience and financial stability to provide resold and facilities-based local exchange telecommunications services in the District of Columbia.

⁵ NextG Networks possesses the requisite operational, managerial, and technical ability to provide the proposed services in District, through Dr. John B. Georges, its Chairman, and a leading supplier of wireless networking equipment, who has over fifteen years of experience in the telecommunications industry. Joseph M. Veni, its Vice President, has over 30 years of telecommunications experience in general management, marketing, sales, service and applications engineering. Additionally, other members of NextG Networks's senior management possess the ability to provide expertise in product development, wireless engineering management, sales, finance and accounting, business development, governmental relations, and legal affairs. Statement at Exhibit 9.

⁶ NextG Networks maintains that its financial statements are confidential and requests that the Commission retain them "under a seal of confidentiality." Statement at TA05-1-2 and Supplemental filing on January 27, 2005. Confidential filings of proprietary information are governed by the Commission's Rules of Practice and Procedure. Specifically, the Commission's Rule 150.1, 39 D.C. Reg. 5126 (July 10, 1992), states, in pertinent part:

Any material submitted by a party, which claims are confidential and/or proprietary, shall be filed under seal and shall not be used except in connection with the proceeding in which the material is filed.

However, Commission Rule 150.4 (b), 39 D.C. Reg. 5127 (July 10, 1992), provides that, in order to obtain proprietary information, the requesting party shall "file with the Commission for a Proprietary Information Determination pursuant to Section 150.5."

In light of the foregoing, we NextG Networks's financial statements under seal, subject to challenge, pursuant to the Commission's Rules 150.4(b) and 150.5.

⁷ NextG Networks provided financial information to demonstrate that it has sufficient financial resources to operate as a telecommunications service provider in the District of Columbia. Filings submitted on September 9, 2004.

5. The Commission has concluded in previous Orders that the public interest is served by increasing competition in the local telecommunications market through new entrants such as NextG Networks.⁸ These potential benefits include a reduction in prices, a greater array of services, and the likelihood of increased economic development for the District, with the potential for new jobs and financial investment.⁹ The Applicant has demonstrated that it has the experience and financial resources to provide telecommunications services in the District and therefore, the Commission concludes that its certification will serve the public interest.

THEREFORE, IT IS ORDERED THAT:

6. NextG Networks Atlantic, Inc.'s Application to provide resold and facilities-based local exchange telecommunications services in the District of Columbia is hereby **GRANTED**.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:



CHIEF CLERK

CHRISTINE D. BROOKS
COMMISSION SECRETARY

⁸ *Formal Case No. 892, In the Matter of the Application to Provide Local Telecommunications Services in the District of Columbia of Winstar Wireless*, Order No. 10835 at 4, rel. January 23, 1997; *Formal Case No. 892, In the Matter of the Application to Provide Local Telecommunications Services in the District of Columbia of Dynamic Telco Services, Inc.*, Order No. 11082 at 6, rel. October 28, 1997.

⁹ *Formal Case No. 892, In the Matter of the Application for a Certificate of Public Convenience and Necessity of Teleport Communications of Washington, D.C. Inc.*, Order No. 10847 at 2, rel. September 26, 1996.